

APPEAL NO. 021630  
FILED ON JULY 31, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 6, 2002. The hearing officer determined that the appellant (claimant) did not sustain her bilateral carpal tunnel syndrome (CTS) as a result of repetitive trauma during her employment. The claimant has appealed, citing the evidence she believes proved her claim of occupational disease. The claimant also asserts that there was evidence of a specific injury on the date of injury in question. The respondent (carrier) responds that the decision should be affirmed.

DECISION

We affirm the hearing officer's decision.

As we have noted before, to simply assert that one performs a wide range of activities of unspecified duration is insufficient to establish that the activities were either repetitious or traumatic. See Texas Workers' Compensation Commission Appeal No. 982649, decided December 23, 1998. Opinion testimony from a doctor does not establish any material fact as a matter of law and is not binding on the trier of fact. American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). Moreover, where an expert's opinion is based on assumed facts that differ materially from actual facts, the opinion is without probative value and cannot support a verdict and judgment. Burroughs Wellcome Company v. Crye, 907 S.W.2d 497 (Tex. 1995). In this case, the facts were complicated in that the claimant simultaneously worked for several employers, and performed similar tasks for some of them. There were conflicting medical opinions offered. Although the claimant complains on appeal that the hearing officer did not find a specific injury on \_\_\_\_\_, when she felt elbow pain while lifting a box, the claimant's theory of recovery at the hearing and presentation of evidence were that the claimant had bilateral CTS that was acquired through repetitive trauma. No evidence was offered that there was a specific injury.

In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We affirm the decision and order.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL  
9330 LBJ FREEWAY, SUITE 1200  
DALLAS, TEXAS 75243.**

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Roy L. Warren  
Appeals Judge